

REMARKS

New claims 31-33 requiring the presence of specific metasilicate to alkanolamine weight ratios have been added. Support for these claims exists, *inter alia*, at page 4, lines 18-20.

Claims 1-33 are currently pending.

The Office Action rejected claims 1-4, 8-11, 13-22, 25-27 and 30 under 35 U.S.C. § 102 as anticipated by U.S. patent 5,376,146 (“Casperson”), and claims 1, 3, 4, 11, 13-16, 19-22 and 24-26 under 35 U.S.C. § 102 as anticipated by U.S. patent 6,004,355 (“Dias”). The Office Action also rejected claims 5-7, 12, 23, 28 and 29 under 35 U.S.C. § 103 as obvious over Casperson. In view of the following comments, Applicants respectfully request reconsideration and withdrawal of these rejections.

The invention compositions contain at least one oxidation dye and an alkalinizing agent comprising at least one metasilicate and at least one alkanolamine. Neither Casperson nor Dias teaches or suggests such compositions.

Specifically, with respect to Casperson, this reference (at col. 5, lines 12-29) states that a wide variety of alkaline reagents can be used to adjust the pH of the disclosed hair coloring compositions. Casperson states that ammonium hydroxide can be used. Casperson also states that “there can be used in place of, or together with, ammonium hydroxide any other compatible ammonia derivative as an alkalizing agent...” Examples of such other agents are alkanolamines and “organic or inorganic alkalizing agents.” Thus, Casperson appears to suggest that (1) ammonium hydroxide, alkanolamines and “organic or inorganic alkalizing agents” can be used individually as alkalizing agents; and (2) ammonium hydroxide can be used in combination with alkanolamines or “organic or inorganic alkalizing

agents.” However, Casperson does not teach or suggest that alkanolamines and “organic or inorganic alkalizing agents” can be used together, or any benefits resulting from such a combination.

In stark contrast, the claimed invention requires the presence of at least one metasilicate **and** at least one alkanolamine. Casperson neither teaches nor suggests such compositions.

Dias states that magnesium silicate can optionally be added to his compositions. (Col. 31, lines 3-4). However, Dias neither teaches nor suggests that such a compound could be an alkalizing agent. In fact, Dias teaches away from such use of magnesium silicate because Dias does not include this silicate --or any silicate-- when discussing pH adjusters such as alkanolamines. (See, col. 22, lines 24-42). Thus, Dias neither teaches, suggests, nor recognizes any benefits associated with adding magnesium silicate to his compositions (it is merely an optional component which may or may not be added to his compositions), nor does he recognize any benefits associated with combining such a silicate with an alkanolamine to yield the claimed alkalizing agent.

Based on the vague, general disclosure in Dias, no motivation would have existed to combine alkanolamines with the claimed silicates to yield the claimed alkalizing agents with the expectation that any benefits would result.

Finally, Applicants note that both Casperson and Dias appear to inadvertently disclose a single specie of silicate. (Magnesium silicate for Dias; sodium silicate for Casperson). Such a minimal, inadvertent disclosure neither teaches nor suggests combining a metasilicate with an alkanolamine to yield the claimed alkalizing agents, or the benefits resulting from such a combination.

For all of the reasons discussed above, the cited art neither teaches nor suggests the claimed invention.

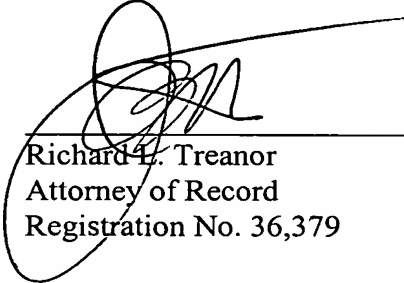
This is particularly true for new claims 31-33 which require specific alkanolamine/metasilicate ratios. Nowhere do Casperson or Dias teach or suggest combining at least one metasilicate and at least one alkanolamine in a single composition in the required ratios to yield the claimed alkanizing agents. Nothing in either of these references would lead one skilled in the art to the specific subject matter of claims 31-33.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejections under §§ 102 and 103.

Applicants believe that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Richard L. Treanor
Attorney of Record
Registration No. 36,379

Jeffrey B. McIntyre
Registration No. 36,867

Customer Number

22850

Tel #: (703) 413-3000

Fax #: (703) 413-2220